



THE CITY OF NEW YORK
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January 18, 2018

BY ECF

Honorable William H. Pauley, III
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Smith v. City of New York et al., 17-cv-6104 (WHP)

Your Honor,

I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department, attorney for Defendant City of New York ("City") in the above-referenced matter.¹ The Defendant writes in accordance with Your Honor's Order for the Initial Pretrial Conference to submit a written report at least seven (7) days before the Pretrial Conference, scheduled to take place on January 25, 2018. (Dkt. No. 15).

Pursuant to the Court's Order and Rule 26(f) of the Federal Rules of Civil Procedure, Defendant attempted to confer with Plaintiff regarding this report. On January 9, 2018, Defendant City mailed a proposed written report to Plaintiff and requested that Plaintiff return the report to our office, with any comments or proposed changes, or to call Mr. Ravenborg to discuss the issue by January 17, 2018. In addition, the letter reminded Plaintiff of the upcoming conference and informed Plaintiff that arrangements had been made with Franklin Correctional Facility to have him appear by telephone at the conference. To date, we have not received a response from Plaintiff either by mail or telephone. Nonetheless, the following is Defendant's proposed schedule.

¹ This case is assigned to Assistant Corporation Counsel Daron Ravenborg, who is presently awaiting admission to the Southern District of New York and is handling this matter under my supervision. Mr. Ravenborg may be reached directly at 212-356-0822 or dravenbo@law.nyc.gov.

- 26(f)(3)(A)** Defendant City will serve its Initial Disclosures by the date of the Initial Conference on January 25, 2017. Plaintiff's Initial Disclosures to be served by no later than February 15, 2018.
- 26(f)(3)(B)** The parties require discovery in regard to the incident that forms the basis of plaintiff's claims, and defendant City requires discovery into plaintiff's claimed damages. Subject to the prompt closing of the internal investigation by DOC into the incident that forms the basis for plaintiff's complaint, the parties anticipate that all fact discovery should be completed by July 25, 2018. The parties do not anticipate expert discovery at this time.
- 26(f)(3)(C)** At this juncture, the parties do not anticipate conducting discovery of any electronically stored information. The parties do, however, reserve the right to seek discovery of electronically stored information if same becomes necessary during the course of this litigation.
- 26(f)(3)(D)** Defendant City anticipates asserting the Deliberative Process Privilege over the ongoing investigation into the incident that forms the basis of plaintiff's claims. Defendant does not foresee any other issues regarding claims of privilege or work product protection. To the extent any document may be withheld or redacted on the basis of privilege and/or work product protection, Defendant City will comply with Local Civil Rule 26.2. In the event that plaintiff seeks discovery of employment and/or disciplinary records for any corrections officer, or other employee of the City of New York, defendants will seek a protective order, limiting use of same.
- 26(f)(3)(E)** At this point, the parties do not propose any such changes to the limitations on discovery imposed by the Federal Rules of Civil Procedure.

26(f)(3)(F) At this point, the parties do not seek a Court Order under Rule 26(c) or under Rule 16(b) and (c) of the Federal Rules of Civil Procedure.

Respectfully submitted,

_____/s/
Carolyn K. Depoian
Senior Counsel
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CC: **BY FIRST-CLASS MAIL**
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